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U.S. Department of Homeland Security  
U.S. Citizenship and Immigration Services  
Administrative Appeals Office (AAO)  
20 Massachusetts Ave., N.W., MS 2090  
Washington, DC 20529-2090



U.S. Citizenship  
and Immigration  
Services

DATE: **AUG 13 2013** OFFICE: NEBRASKA SERVICE CENTER

FILE:

IN RE:

Petitioner:

Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office (AAO) in your case.

Thank you,

  
Ron Rosenberg  
Acting Chief, Administrative Appeals Office

**DISCUSSION:** The Director, Nebraska Service Center, denied the immigrant visa petition and the matter was appealed to the AAO. By decision dated January 14, 2013, the AAO rejected the petitioner's appeal as untimely. The matter is again before the AAO on the petitioner's motion to reopen and motion to reconsider. The AAO's decision dated January 14, 2013 rejecting the petitioner's appeal as untimely shall be withdrawn and a new decision entered addressing the merits of the petitioner's appeal. The appeal will be sustained. The petition shall be approved.

The petitioner describes itself as a semiconductor manufacturer. It seeks to permanently employ the beneficiary in the United States as a software engineer. The petitioner requests classification of the beneficiary as an advanced degree professional pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2).

On January 14, 2013 the AAO issued a decision rejecting the petitioner's appeal as having been untimely filed. The petitioner has presented, on appeal, tracking documentation from Federal Express which shows that the appeal was received by United States Citizenship and Immigration Services (USCIS) on April 9, 2012. The appeal was, therefore, timely filed. The decision of the AAO dated January 14, 2013 rejecting the petitioner's appeal is withdrawn. The merits of the petitioner's appeal shall be considered as hereinafter discussed.

At issue in this case is whether the beneficiary possesses an advanced degree as required by the terms of the labor certification and the requested preference classification.

The record establishes that the beneficiary's foreign education completed in 2007, is equivalent to a master's degree in the United States as required by the terms of the labor certification. The record further establishes that the beneficiary has the specific skills required by the labor certification for the position.

Based on the foregoing, the petitioner has established that the beneficiary meets the educational and specific skill requirements of the labor certification.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. The petitioner has met that burden.

**ORDER:** The appeal is sustained, and the petition is approved.